

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

2. The petitioner's older daughter is a twenty-one-year-old full-time college student who lives at home. Prior to July this daughter was included in the petitioner's Food Stamp household because she participated in a federally funded work study program, and was thus exempted from the provisions that normally exclude college students from eligibility (see *infra*).

3. This daughter began her summer vacation in June 2004, and did not continue with her work study when her spring semester ended. She intends to resume classes and work study in September 2004.

4. This daughter has a history of gastro-reflux disease with recurring symptoms of asthma and pneumonia. In August 2004 she is scheduled to undergo surgery related to this problem. The petitioner admits that her daughter did not intend to work or take classes any time during the summer. However, there is no claim or evidence that she would have been unable to do so prior to the actual date of her scheduled surgery, or shortly after the surgery. The daughter did not register for work at the Department of Employment and Training and has not sought work on her own.

5. In June 2004 the Department notified the petitioner that as of July 1, 2004 her Food Stamps would be reduced from \$246 to \$108 a month. The reasons were a combination of the older daughter no longer being eligible as a member of the household and an increase in the petitioner's earnings (the latter of which is not in dispute).

ORDER

The Department's decision is affirmed.

REASONS

As a general matter, Food Stamp regulations preclude eligibility for students who are enrolled at least half time in college. F.S.M. § 273.5(a). However, students who are either working at least 20 hours a week or "participating in a federally financed work study program during the regular school year" are exempted from this prohibition. F.S.M. §§ 273.5(b)(5) and (6). Because of the latter of these exemptions, the Department determined that the petitioner's older daughter was eligible to receive Food Stamps as a member of the petitioner's household during the 2003-2004 school year.

However, the regulation on work study further provides: "the exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break". F.S.M. § 273.5(b)(6)(ii). The clear intent of the above provisions is that college students are ineligible for Food Stamps in any month in which they are either not actively working or engaged in work study, unless they are "physically or mentally unfit". F.S.M. § 273.5(b)(2). Based on these provisions, the Department determined that the petitioner's daughter was not

eligible for Food Stamps when her work study ended for the summer and she did not obtain at least half-time employment.

The petitioner argues that the work registration requirements of F.S.M. § 273.7 should somehow be read to allow an initial three-month grace period of exemption from work registration and/or employment. However, the exemptions for work registration specifically include a provision that college students must *first* meet the requirements of § 273.5 (*supra*). F.S.M. § 273.7(b)(1)(viii).

Given that the petitioner's daughter as of June 2004 was neither working nor actively engaged in work study, and absent any medical evidence that she was "unfit" for work during this period, the above regulations clearly preclude her eligibility for Food Stamps. Thus, the Board is bound to affirm the Department's decision in this matter. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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